

103D CONGRESS  
1ST SESSION

# S. 514

To amend title XVIII of the Social Security Act to improve procedures under part B of the medicare program relating to extra-billing limits, and for other purposes.

---

## IN THE SENATE OF THE UNITED STATES

MARCH 5 (legislative day, MARCH 3), 1993

Mr. PRYOR (for himself, Mr. COHEN, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. CONRAD, Mr. BOREN, Mr. GRASSLEY, Mr. DURENBERGER, and Mr. MITCHELL) introduced the following bill; which was read twice and referred to the Committee on Finance

---

## A BILL

To amend title XVIII of the Social Security Act to improve procedures under part B of the medicare program relating to extra-billing limits, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. REFERENCES TO SOCIAL SECURITY ACT.**

4 Except as otherwise specifically provided, whenever in  
5 this Act an amendment is expressed in terms of an amend-  
6 ment to or repeal of a section or other provision, the ref-  
7 erence shall be considered to be made to that section or  
8 other provision of the Social Security Act.

1 SEC. 2. EXTRA-BILLING.

2 (a) APPLICATION OF EXTRA-BILLING LIMITS.—

3 Paragraph (1) of section 1848(g) (42 U.S.C. 1395w-4(g))

4 is amended to read as follows:

5 “(1) LIMITATION ON ACTUAL CHARGES.—

6 “(A) NO BILLING IN EXCESS OF LIMITING  
7 CHARGES.—A nonparticipating physician who  
8 does not accept payment on an assignment-re-  
9 lated basis for physicians’ services furnished  
10 with respect to an individual enrolled under this  
11 part may not bill or collect an actual charge in  
12 excess of the limiting charge described in para-  
13 graph (2) for such services.

14 “(B) NO LIABILITY FOR EXCESS  
15 CHARGES.—No person is liable for payment of  
16 any amounts billed in excess of the amount per-  
17 mitted under subparagraph (A).

18 “(C) REFUND OF EXCESS CHARGES.—If a  
19 physician bills or collects an amount that ex-  
20 ceeds by at least one dollar the applicable limit-  
21 ing charge for a service furnished to an individ-  
22 ual enrolled under this part, the physician shall  
23 on a timely basis—

24 “(i) refund the full amount collected  
25 in excess of the limiting charge,

1           “(ii) if there is an outstanding balance  
2           owed to the physician for other items and  
3           services and furnished to the individual, re-  
4           duce this balance by the amount of the ex-  
5           cess charge and refund any amount in ex-  
6           cess of the outstanding balance, or

7           “(iii) if the physician has not yet col-  
8           lected such excess charges, reduce the ac-  
9           tual charge billed for the service to the  
10          amount permitted under subparagraph  
11          (A).

12          “(D) TIMELINESS OF REFUND.—

13               “(i) IN GENERAL.—A refund (or re-  
14               duction) under subparagraph (C) is consid-  
15               ered to be made on a timely basis if the  
16               full refund (or notice to the individual of  
17               reduced outstanding balance or reduced  
18               charge, as applicable) is made within 30  
19               days after a carrier notifies the physician  
20               that the limiting charge has been exceeded.

21               “(ii) RESPONSE TO CARRIER’S DETER-  
22               MINATION.—In the case of a physician  
23               who, within 30 days after the carrier noti-  
24               fies the physician that the limiting charge  
25               has been exceeded, submits to the carrier

1 documentation supporting application of a  
2 different limiting charge to the service fur-  
3 nished, a refund (or reduction) under sub-  
4 paragraph (C) is considered to be made on  
5 a timely basis if the full refund (or notice  
6 to the individual of reduced outstanding  
7 balance or reduced charge, as applicable) is  
8 made within 15 days after the carrier noti-  
9 fies the physician following review of such  
10 documentation that the limiting charge has  
11 been exceeded.

12 “(E) SANCTIONS.—If a physician—

13 “(i) knowingly and willfully bills for  
14 services in violation of subparagraph (A),

15 “(ii) collects for services in violation  
16 of subparagraph (A) on a repeated basis,  
17 or

18 “(iii) fails to comply with subpara-  
19 graph (C),

20 the Secretary may apply sanctions against the  
21 physician in accordance with section 1842(j)(2)  
22 and apply paragraph (4) of section 1842(j) in  
23 the same manner as such paragraph applies to  
24 such section.”.



1 (b) DETERMINATIONS BY CARRIERS REGARDING AP-  
2 PLICABLE LIMITING CHARGES FOR PHYSICIAN SERV-  
3 ICES.—Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is  
4 amended—

5 (1) by striking “and” at the end of subpara-  
6 graph (G);

7 (2) by striking “and” at the end of subpara-  
8 graph (H); and

9 (3) by inserting after subparagraph (H), the  
10 following new subparagraph:

11 “(I) will, for claims that are not paid on an as-  
12 signment-related basis—

13 “(i) determine, prior to making payment,  
14 whether the amount billed for physicians’ serv-  
15 ices furnished with respect to an individual en-  
16 rolled under this part exceeds the limiting  
17 charge applicable under section 1848(g)(2);

18 “(ii) notify the physician, supplier, or other  
19 person within 30 days of any determination  
20 that the amount billed exceeds by at least one  
21 dollar the limiting charge applicable under sec-  
22 tion 1848(g)(2) and provide an opportunity for  
23 the physician supplier or other person to re-  
24 spond;

1           “(iii) notify the physician, supplier, or  
2           other person, within 30 days of the receipt of  
3           a response, of the carrier’s determination with  
4           respect to such response regarding whether the  
5           limiting charge applicable under section  
6           1848(g)(2) has been exceeded; and

7           “(iv) include limiting charge information in  
8           the explanation of medicare benefits that is sent  
9           to an individual enrolled under this part after  
10          the submission of an unassigned claim on an in-  
11          dividual’s behalf which exceeds the limiting  
12          charge by at least one dollar; and”.

13          (c) MONITORING OF CHARGES IN EXCESS OF LIMIT-  
14          ING CHARGE.—Section 1848(g)(6) (42 U.S.C. 1395w-  
15          4(g)(6)) is amended in subparagraph (B), by striking “re-  
16          port to the Congress” and inserting “report to the Con-  
17          gress regarding the charges described in subparagraph  
18          (A)(i), including the extent to which actual charges exceed  
19          limiting charges, the number and types of services in-  
20          volved, and the average amount of excess charges”.

21          (d) ESTABLISHMENT OF MEDICARE BENEFICIARY  
22          ADVISORY COUNCIL.—Title XVIII (42 U.S.C. 1395 et  
23          seq.) is amended by inserting after section 1889 the fol-  
24          lowing new section:

1 **"SEC. 1890. MEDICARE BENEFICIARY ADVISORY COUNCIL.**

2       “(a) **APPOINTMENT OF MEMBERS.**—The Secretary  
3 shall appoint, based on nominations submitted by organi-  
4 zations representing elderly and disabled populations, a  
5 Medicare Beneficiary Advisory Council (hereafter in this  
6 section referred to as the ‘Council’) to be composed of 15  
7 individuals who are entitled to benefits under part A or  
8 who are enrolled under part B.

9       “(b) **MEETINGS.**—The Council shall meet once dur-  
10 ing each calendar quarter to discuss proposed regulations,  
11 carrier manual instructions, and any other issues with a  
12 direct or indirect impact on delivery, cost, quality, or ex-  
13 pansion of medicare services. To the extent feasible and  
14 consistent with statutory deadlines, such consultation shall  
15 occur before the publication of such proposed changes.

16       “(c) **REIMBURSEMENT OF EXPENSES.**—Members of  
17 the Council shall be entitled to receive reimbursement of  
18 expenses and per diem in lieu of subsistence in the same  
19 manner as other members of advisory councils appointed  
20 by the Secretary are provided such reimbursement and per  
21 diem under this title.”.

22       (e) **EFFECTIVE DATES.**—

23               (1) **IN GENERAL.**—Except as provided in para-  
24 graph (2), the amendments made by this section  
25 shall apply to services furnished on or after January  
26 1, 1994.



1           (2) COUNCIL.—The amendment made by sub-  
2       section (e) shall take effect on the date of the enact-  
3       ment of this Act.

○